

October 19, 2002

Honorable J. Curtis Joyner  
8613 U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106

Re: Diekman v. Energy Choice Marketing, Inc., et al., Civil Action No. 46-81

Dear Judge Joyner:

I have received a copy of a letter dated October 17, 2002 from Michael McDonnell, III, Esquire, counsel for plaintiff in the above referenced matter. In that letter, Mr. McDonnell represents that I have no objection to the filing of an amended complaint after having filed motions to dismiss on behalf of two of the defendants and having answered on behalf of one defendant.

Mr. McDonnell must have misinterpreted our telephone conversation, because, contrary to Mr. McDonnell's representation, I **do** object to the filing of an amended complaint against defendants Shai Fishman and S&D Marketing, Inc. My objection is premised on the belief that there are no causes of action against these two defendants and that they were originally included as defendants solely as potential "deep pockets" even though they had no involvement in what is a breach of employment contract case between plaintiff employee and an insolvent employer, defendant Energy Choice Marketing, Inc.

Respectfully yours,

Stephen G. Burns

SGB/nsa  
cc: Michael T. McDonnell, III, Esquire  
Mr. Shai Fishman